



# ELECTION NEWS

A special informational bulletin  
on the conduct of the November 2,  
2004 general election

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Michigan Department of State - Terri Lynn Land, Secretary of State

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## **Provisional Balloting Process: New Procedural Points**

While Michigan's new "provisional balloting process" was successfully employed at the August 3 primary, the procedures will receive a much more rigorous test during the November 2 general election when many more voters will attend the polls.

After evaluating the feedback we received on the provisional balloting process, several minor, yet important, modifications have been made in the procedures as explained below:

- In any instance where a voter whose name does not appear on the QVF list refuses to complete the affidavit portion of the four-step procedure form to assert that he or she registered to vote on or before the registration deadline, the election inspectors must not issue a provisional ballot to the voter. Instead, such voters must be advised that they are ineligible to vote in the election.
- In an instance where a voter 1) appears to vote in the wrong precinct and 2) declines to travel to his or her proper precinct to vote, it is important that the election inspectors tell the voter that his or her provisional ballot will not count if it is confirmed after the election that the voter has voted in the wrong precinct.
- In any situation where an "envelope" ballot has been issued to a voter who 1) appeared to vote in the wrong precinct and 2) declined to travel to his or her proper precinct to vote, the clerk must make every effort during the 6-day "envelope" ballot evaluation period to accurately confirm that the voter did, in fact, vote in the wrong precinct before rejecting the "envelope" ballot as invalid. The evaluation must include a check of the QVF street index to verify that the voter was not assigned to the wrong precinct in error. If a check of the street index reveals that a voter in this situation actually voted in the proper precinct, the "envelope" ballot must be counted.
- City and township clerks must complete and file a "Provisional Ballot Report" form in any instance where 1) provisional ballots were counted or tabulated in the polls on election day and/or 2) provisional ballots were secured in Provisional Ballot Security Envelopes for delivery to the clerk's office after the polls close ("envelope" ballots). Previous instructions advised that the completion and submission of a Provisional Ballot Report form was only necessary if "envelope" ballots were delivered to the clerk's office after the election. (Additional information on the submission of the Provisional Ballot Report form is provided in the following article, *Administration of the Provisional Balloting Process*.)

A copy of the four-step procedure form which has been revised to reflect the above points is provided with this newsletter. Revised procedures for handling “envelope” ballots returned to the clerk’s office are also provided.

### **Administration of Provisional Balloting Process**

The new provisional balloting process must be employed anytime a voter who completes an Application to Vote form does not appear on the precinct’s QVF list. The four-step procedure form must be completed *before* a ballot is issued to the voter. There are two exceptions:

- 1) If the voter is in the proper polling place and is able to produce a voter registration receipt that shows that he or she registered to vote before the registration deadline, there is no need for the precinct board to complete the form. Instead, the precinct board should contact the clerk for assistance if needed and arrange to have the voter complete another registration form. After the voter has completed the registration form, the voter can be permitted to vote under regular procedure.
- 2) If the precinct board or the clerk determines that the voter is registered to vote in a different precinct and the voter is willing to travel to his or her proper polling place, there is no need for the precinct board to complete the form. Instead, the precinct board should give the voter directions to his or her proper polling place. (If the voter declines to travel to his or her proper polling place, the precinct board must complete the form. As noted earlier, such voters must be cautioned that while they are eligible to vote an “envelope” ballot, it will not count if it is later confirmed that the voter did not, in fact, vote in the proper precinct.)

***Four-step procedure form:*** In an instance where the four-step procedure form must be completed before a ballot can be issued to the voter, the precinct board must carefully work through each of the four steps explained on the form. After completing the form, the precinct board must make a final determination on whether the ballot issued to the voter can be handled like any other ballot issued in the polls (i.e., deposited in the precinct’s ballot box or tabulator) or must be preserved in a special “provisional ballot security envelope” and returned to the clerk’s office for further review after the polls close. The four-step procedure form is designed to guide the precinct board in making this determination. A ballot preserved in a provisional ballot security envelope is commonly called an “envelope” ballot. The four-step procedure form and provisional ballot security envelopes can be purchased through commercial suppliers.

***Actions clerk must take after election:*** City and township clerks who receive one or more “envelope” ballots after the polls close must evaluate the ballots within 6 days after the election to determine if the ballots can be counted. The four-step procedure form is designed to guide the precinct board on recording all of the information needed by the clerk to determine whether an “envelope” ballot can be counted. The clerk is *not* permitted to open a provisional ballot security envelope unless the clerk determines that the ballot can be counted. The procedure for handling “envelope” ballots returned to the clerk’s office is provided with this newsletter.

No later than the 7<sup>th</sup> day after the election, the city or township clerk must complete a “Provisional Ballot Report” form and submit it to the county canvassing board or local

canvassing board as appropriate. The Provisional Ballot Report form documents the number of provisional ballots which were 1) counted or tabulated in the polls on election day and 2) secured in Provisional Ballot Security Envelopes for delivery to the clerk's office after the polls close. The report further documents 1) the number of "envelope" ballots determined valid and counted and 2) the number of "envelope" ballots determined invalid and not counted. A Provisional Ballot Report form is provided with this newsletter.

***"Free access system":*** All voters who were issued a provisional ballot must have access to a cost-free informational system which the voters can use to obtain information on whether their ballot counted, and, if the ballot was not counted, the reason why the ballot was not counted. (HAVA refers to such systems as "free access systems.") A notice must be distributed to each voter issued a provisional ballot to advise the voter of his or her right to obtain this information. (The notice is attached to the four-step procedure form.)

To ensure compliance with the new requirement, all city and township clerks must be prepared to handle inquiries from voters who were issued "envelope" ballots. When handling such inquiries the clerk has an obligation to advise the voter on whether his or her "envelope" ballot was counted or was not counted. If the voter's "envelope" ballot was not counted, the clerk must explain the reason why and the actions the voter can take to ensure that the next time the voter wishes to participate in an election, his or her ballot will count.

In accordance with federal law, PA 92 of 2004 stipulates that the free-access system may be "a telephone number that does not require a toll charge, a toll-free telephone number, an internet website, or a mailed notice." If a "mailed notice" is employed, the notice must be sent to each and every voter who was issued an "envelope" ballot.

***Provisional balloting process must be employed for all elections:*** It merits final note that the provisional balloting process must be employed for all state, county and local elections conducted in Michigan. The extension of the provisional balloting process to all elections in the state was effected under PA 92 of 2004.

### **Appointing Election Inspectors**

- An election inspector must be a registered voter of the *county* in which he or she is appointed to serve. To accommodate jurisdictions that cross county boundaries, Michigan election law provides that an individual registered to vote in a local unit of government that falls in more than one county may be appointed to serve on any precinct board established within the local unit of government.
- Election inspector appointments must be handled by the local board of election commissioners at least 21 days but not more than 40 days before each election. The appointments cannot be made less than five days before the date set for holding an election inspector instructional session. A city or township that is not handling its election inspector appointments through its election commission is advised to take immediate action to bring its appointment procedures into compliance with the law.
- Not later than two business days following the appointment of election inspectors for an

election scheduled to nominate or elect candidates to a *federal or state office*, the election commission is required to notify the county chair of each major political party of the “names and political party affiliations of appointed election inspectors and the precincts to which those inspectors were appointed.” The notification must be made by “certified mail, personal service, or electronic transmission capable of determining date of receipt.”

- At least three election inspectors must be appointed to serve in each precinct; additional inspectors must be appointed if needed to properly conduct the election. The election commission must designate one of the election inspectors appointed to each board as “chairperson” of the board. The first three inspectors appointed to serve on a precinct board must be 18 years of age or older; any additional precinct inspectors appointed to the board may be 16 or 17 years of age. A precinct inspector appointee must be at least 18 years of age to serve as the chairperson of the precinct board.
- The election commission is required to appoint “at least 1 election inspector for each major political party.” In addition, the election commission is required to politically balance each precinct board “as nearly as possible.” A “major political party” is defined as “each of the 2 political parties whose candidates for the office of secretary of state received the highest and second highest number of votes at the immediately preceding general election in which a secretary of state was elected.” (Current “major political parties” are the Republican Party and the Democratic Party.) The election commission may appoint election inspector applicants who have expressed a preference for a minor political party at its discretion.
- The election commission is prohibited from knowingly appointing an individual to serve as an election inspector if the person has been convicted of a felony or election crime or if any member of the person’s “immediate family” is a candidate for nomination or election to any office at the election. (“Immediate family” is defined as the individual’s “father, mother, brother, sister, spouse and any relative residing in the same household with that person.”)
- An election commission is further prohibited from appointing a person as an election inspector “if that person declares a political party preference for a political party but is a known active advocate of another political party. A “known active advocate” of another political party is defined to mean a person who 1) is a delegate to the convention or an officer of another party 2) is affiliated with another party through an elected or appointed government position or 3) has made documented public statements (i.e., “statements reported by the news media or written statements with a clear and unambiguous attribution to the applicant”) specifically supporting by name another political party or its candidates in the same calendar year as the election for which the appointment is being made.

### **“Close of Registration” Standards: A Reminder**

An unregistered elector who wishes to participate in the November 2, 2004 general election must register to vote no later than Monday, October 4, 2004. Michigan election law specifies that a voter registration applicant who meets any of the following standards has fulfilled the “close of registration” requirement for the November 2 general election:

- The elector submits a voter registration application through a Secretary of State branch office, a designated voter registration agency or his or her county, city or township clerk's office on or before October 4.
- The elector submits a voter registration application through the mail – and it is postmarked on or before October 4. If the postmark date is missing or unclear, the voter registration application meets the October 4 registration deadline if 1) the clerk of the applicant's city or township of residence receives the application on or before October 11 (7<sup>th</sup> calendar day after October 4) and 2) the application was dated by the applicant on or before October 4.